

USSN 10/797,589  
Response to July 19, 2011 Final Office Action  
Amendment dated October 19, 2011

## **REMARKS**

The Final Office Action of July 19, 2011 has been received and considered. Claims 1-36 are pending in this application. Claims 1 and 21 have been amended.

Reconsideration of the application in view of the foregoing amendments and following remarks is respectfully requested. Each of the Examiner's rejections is discussed below.

### **Specification**

The specification has been objected to on the ground that the subject matter "an exterior surface that is substantially parallel to the interior surface and is completely exposed to an exterior of the swimsuit body" is not provided in the specification.

The phrase in question has been removed from the claims and, therefore, the specification is believed to be in proper form.

### **Section 112**

Claims 1-36 have been rejected under 35 U.S.C. § 112, second paragraph, on the ground that the phrase "substantially parallel" is not definite.

The phrase in question has been removed from the claims and, therefore, the claims are believed to be in proper form.

### **Claim Amendments**

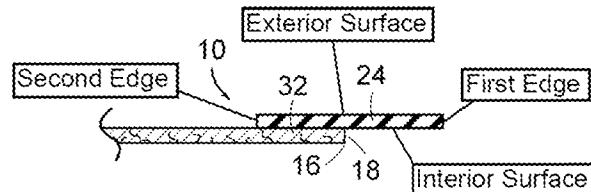
Independent claims 1 and 21 have been amended to more fully define the resilient seal. As illustrated in annotated Fig. 2 shown below, the resilient seal requires:

an **interior surface**, a first portion of the interior surface secured about the at least one aperture on an exterior of the swimsuit body and a second portion of the interior surface extending beyond the swimsuit body and configured to contact the user's body when the swimsuit body is worn by the user;

**an exterior surface that is opposed to the interior surface** and is completely exposed to an exterior of the swimsuit body;

**a first edge extending from the interior surface to the exterior surface** and being a leading edge of the seal when the user is swimming; and

**a second edge opposed to the first edge** and extending from the interior surface to the exterior surface.



**FIG. 2**

Support for these claim amendments can be found in the original specification and drawings. Specifically, at least Figs. 2 3, 5, and 11 illustrate the seal having the required interior surface and opposed exterior surface, the first edge and the opposed second edge, with the interior surface having a first portion secured about the aperture and a second portion contacting the user's body, and the exterior surface completely exposed to the exterior.

The specification at paragraph [26] recites the seal being **secured about the aperture**. Paragraph [27] recites the seal being sealed **on the user's body**. Paragraph [38] recites the **interior surface** 78 of the seal, and the first edge (76) being a **leading edge** of the seal.

## **Section 102**

Claims 1, 2, 7-11, 15, 19, 21, 22, 26-29, and 33 have been rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,365,351 to Doerschuk et al (“Doerschuk”). This rejection is respectfully traversed.

Doerschuk fails to disclose or make obvious a swimsuit body configured to be stretched over a swimmer’s body, and a resilient seal comprising

**an interior surface**, a first portion of the interior surface secured about the at least one aperture on an exterior of the swimsuit body and a second portion of the interior surface extending beyond the swimsuit body and configured to contact the user’s body when the swimsuit body is worn by the user;

**an exterior surface** that is opposed to the interior surface and is completely exposed to an exterior of the swimsuit body;

**a first edge** extending from the interior surface to the exterior surface and being a leading edge of the seal when the user is swimming; and

**a second edge** opposed to the first edge and extending from the interior surface to the exterior surface, as required by independent claims 1 and 21.

Doerschuk lacks the resilient seal, as claimed. As seen below in an annotated portion of Fig. 2 of Doerschuk, showing the first embodiment of its seal, there are two exterior surfaces, only one of which is completely exposed to an exterior. Although the uppermost of the two exterior surfaces is completely exposed to the exterior, the second edge does not extend from the interior surface to this exterior surface. Additionally, the first edge is not a leading edge of the seal, as it is completely in contact with the user’s neck. It is the exterior surfaces that form the

leading surfaces of this seal of Doerschuk.

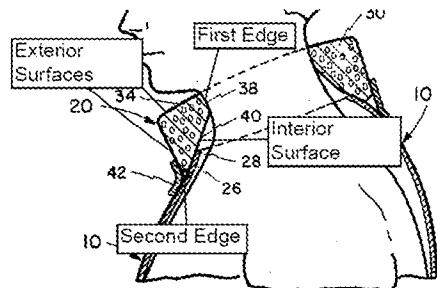


FIG. 2

The other embodiment of a seal 22 of Doerschuk is designed to wrap about a user's wrist, and also fails to meet this required limitation. As can be seen in the annotated portion of Fig. 5 shown below, the exterior surface of seal 22 is not completely exposed to an exterior of the swimsuit body; it is partially covered by tape 64. Additionally, there is no second edge opposed to the first edge and extending from the interior surface to the exterior surface. There are only three sides to the seal, with the trailing end of the seal merely being the intersection of the interior and exterior surfaces.

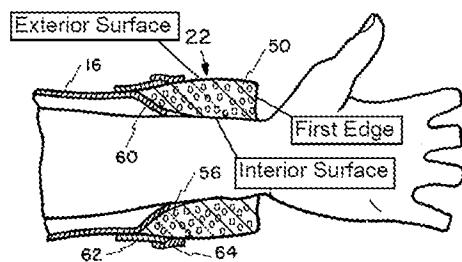


FIG. 5

Accordingly, the rejection is improper and should be withdrawn.

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## **Section 103**

### **Claims 1-3, 5, 6, 9-11, 13, 19-25, 28, 29, 31, and 33**

Claims 1-3, 5, 6, 9-11, 13, 19-25, 28, 29, 31, and 33 have been rejected under 35 U.S.C. § 103(a) over U.S. Patent No. 6,088,032 to Newman (“Newman”) in view of Doerschuk. This rejection is respectfully traversed.

The Office Action asserts that it would have been obvious to modify Newman to have its seal provided as an exterior mount as shown by Doerschuk.

Applicant respectfully submits that one skilled in the art would not have modified Newman with Doerschuk as suggested in the Office Action. As recited in the Brief Summary of the Invention, Newman states that the basis of its invention is suction cup sealing strips on the interior of leg holes and waist portions of bathing suits. The suction cups are held in sealing engagement with the user’s torso by the force of suction, along with the elastic nature of the resilient strip and water pressure.

One skilled in the art would not have modified the location of the seal of Newman to be on an exterior of the bathing suit to match that of Doerschuk. To do so would defeat the primary purpose of the sealing strip of Newman, that is, its suction cup sealing by engagement with the user’s skin. Having all, or even some, of the suction cups on the exterior of the swimsuit would reduce the suction and sealing effect. Newman simply teaches away from such a modification. Newman teaches that it is important to have the suction effect of the seal’s engagement with the user’s skin. Thus, one skilled in the art would have been taught away from moving the seal to the exterior of Newman’s suit, partially or completely.

Applicant respectfully submits that the reason provided in the Office Action for so

modifying Newman is not supported by the teachings of Newman or Doerschuk. The Office Action asserts that one would have so modified Newman in order to provide unfettered access to the seal while the suit is being worn so that the seal can be visually inspected for wear and/or replaced. Applicant respectfully submits that a user of the bathing suit of Newman is more likely to visually inspect the seal when the user is not wearing the bathing suit for at least two reasons. First, a user simply cannot visually inspect much of the seal while wearing the suit. The portions of the seal that extend around the user's back and/or back of the user's leg cannot be seen by the user when wearing the suit. The user would have to remove the suit in order to inspect these portions of the seal.

Additionally, in order to inspect the suction cup seal of Newman for wear, the user would need to look at the interior surface of the seal for signs of wear, since it is the interior surface that has the suction cup structure, and deterioration of this portion of the seal would be the area of concern with respect to wear and potential leakage. It would be much more logical for the wearer of the bathing suit of Newman to inspect the seal when it is not being worn so that the entire seal can be inspected, and that the critical portion of the seal can be inspected.

Applicant notes that these arguments were provided in the Response filed on June 1, 2011, but were not addressed in the outstanding Office Action.

Thus, for at least all of these reasons, it can be seen that one skilled in the art would not have modified Newman's seal with the positioning of the seal of Doerschuk. Accordingly, the rejection is improper and should be withdrawn.

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**Claims 4, 7, 8, 12, 14-18, 26, 27, 30, 32 and 34-36**

Claims 4, 7, 8, 12, 14-18, 26, 27, 30, 32 and 34-36 have been rejected under 35 U.S.C. § 103(a) over Newman in view of Doerschuk. This rejection is respectfully traversed.

Each of these claims depends from independent claims 1 and 21, and are believed to be allowable over the combination of Newman and Doerschuk for at least all of the reasons discussed above. Accordingly, the rejection is improper and should be withdrawn.

**Conclusion**

It is respectfully submitted that the pending claims are in form for allowance. Please apply any charges or credits to Deposit Account No. 19-0733.

Respectfully submitted,

Dated: October 19, 2011

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